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SENATE BILL 2673 By  
Cohen

HOUSE BILL 3104  
By McMillan

AN ACT to amend Tennessee Code Annotated, Section 36-4-121,  
relative to distribution of marital property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-4-121(a)(1), is amended by deleting the words and punctuation "separate support and maintenance," and by substituting instead the words and punctuation "legal separation,".

SECTION 2. Tennessee Code Annotated, Section 36-4-121(a)(2), is amended by redesignating the existing subdivision as subdivision (a)(3), and by adding the following as new subdivision (a)(2):

(a)(2) In all actions for legal separation, the court, in its discretion, may equitably divide, distribute, or assign the marital property in whole or in part, or reserve the division or assignment of marital property until a later time. If the court makes a final distribution of marital property at the time of the decree of legal separation, any after-acquired property is separate property.

SECTION 3. Tennessee Code Annotated, Section 36-4-121(b)(1)(A), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(b)(1)(A) "Marital property" means all real and personal property, both tangible and intangible, acquired by either or both spouses during the course of the marriage up to the date of the final divorce hearing or up to the date of the legal separation hearing unless equity would require another valuation date and owned by either or both spouses as of the date of filing of a complaint for divorce or complaint for legal separation, except in the case of fraudulent conveyance in anticipation of filing and including any property to which a right was acquired up to the date of the final divorce hearing, or the date of legal separation hearing unless equity would require another valuation date, and valued as of a date as near as reasonably possible to the final divorce hearing date or the date of the legal separation hearing.

SECTION 4. Tennessee Code Annotated, Section 36-4-121(b)(1)(B), is amended by deleting all language after the words and figures "subdivision (b)(2)" and by substituting instead the following:

if each party substantially contributed to its preservation and appreciation, and the value of vested and unvested pension, vested and unvested stock option rights, retirement or other fringe benefit rights relating to employment that accrued during the period of the marriage.

SECTION 5. Tennessee Code Annotated, Section 36-4-121(b)(1)(C), is amended by redesignating the existing subdivision as (b)(1)(D), by redesignating existing subdivision (b)(1)(D) as (b)(1)(E), and by adding the following as a new subdivision (b)(1)(C):

(b)(1)(C) "Marital property" includes recovery in personal injury, workers compensation, social security disability actions, and other similar actions for the following: wages lost during the marriage, reimbursement for medical bills incurred and paid with marital property, and property damage to marital property.

SECTION 6. Tennessee Code Annotated, Section 36-4-121(b)(1)(E), as redesignated in Section 5, is amended by deleting the words and punctuation "upon divorce and for no other purpose; and" in the existing subdivision and by substituting instead the following:

upon divorce or legal separation and for no other purpose; and assets distributed as marital property will not be considered as income for child support or alimony purposes, except to the extent the asset will create additional income after the division.

SECTION 7. Tennessee Code Annotated, Section 36-4-121(b)(2), is amended by deleting the word "and" at the end of subdivision (C), changing the period at the end of subdivision (D) to a semicolon, and by adding the following new subdivisions:

(E) Pain and suffering awards, victim of crime compensation awards, future medical expenses, and future lost wages; and

(F) Property acquired by a spouse after an Order of Legal Separation where the court has made a final disposition of property.

SECTION 8. Tennessee Code Annotated, Section 36-4-121(c)(5), is amended by inserting the word "depreciation" between the word and punctuation "appreciation," and the word "or dissipation".

SECTION 9. Tennessee Code Annotated, Section 36-4-121(c)(9) and (c)(10), are amended by deleting the subdivisions in their entirety and by substituting instead the following subdivisions (c)(9), (c)(10), and (c)(11):

(c)(9) The tax consequences to each party, costs associated with the reasonably foreseeable sale of the asset, and other reasonably foreseeable expenses associated with the asset;

(c)(10) The amount of social security benefits available to each spouse;  
and

(c)(11) Such other factors as are necessary to consider the equities between the parties.

SECTION 10. This act shall take effect upon becoming a law, the public welfare requiring it.